85-565 (1)

No. _____

Supreme Court, U.S.
FILED
SEP 18 1985
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

ALICE J. WOODSIDE,
Petitioner,

vs

S. HOERNER, UNITED STATES, et als,
Respondents.

DC 84-1801 AC 85-5286

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Administrator ad prosequendum
For the Petitioner

Daniel L. Woodside
P. O. Box 646
Marlton, New Jersey 08053
(609) 983-3899

54 pp

QUESTIONS PRESENTED FOR REVIEW

FROM THOMPSON ORDER AND OPINION

APRIL 4, 1985

1. Did Thompson violate FRCP 56, due process by remanding jurisdiction when all material facts were deliberately concealed by Thompson refusal to do discovery by ordering stay of discovery?

2. Did Thompson violate 28 USC 1442(a)(1) due process that jurisdiction for this case belongs in federal court, both as to procedural and substantive matters?

3. Did Thompson violate FRCP 301 and 401, due process by staying discovery and thereby conceal all material facts to decide if subject matter also belongs in federal courts and thereby make herself an accessory to murder by concealing and covering up the kicking out of Alice from West Jersey Hospital by S. Hoerner?

4. Did Thompson violate judicial discretion by giving perjured testimony

that all parties have answered complaint when in fact all defendants except nursing home are in default?

5. Did Thompson violate judicial discretion by returning motions in this case after ordering that federal courts have no jurisdiction in this case as to subject matter -- all after refusing oral arguments or considering motions by plaintiff?

6. Did Thompson violate 42 CFR 405.820 by refusing Alice a hearing after exhausting all appeals on arbitrary and capricious cutoff of hospital funding and thereby murder Alice?

7. Did Thompson violate FRCP 1343 and 1346 and 28 USC 2672, 2674, 2675, and 2679 by denying judicial review of S. Hoerner's arbitrary and capricious cutting off of benefits to Alice and thus condone genocide by government?

TABLE OF CONTENTS

	Page
Questions for Review.....	i
List of all parties.....	1
District Court Opinion 4/4/85.....	2
Third Circuit Opinion 8/28/85.....	2
Jurisdictional Statement.....	2
U. S. Constitution Amendment.....	2
Statutes and Codes Violated.....	2
Statement of the Case.....	3
I. Facts II. Federal Questions Raised Below and Court Decisions.	7
Arguments.....	7
I. Supreme Court should grant the petition for certiorari to resolve the ambiguity in Thompson's opinion that jurisdiction in this case appears to be in state court and other violations of procedures, statutes and codes.....	7
Conclusion.....	10
Appendix.....	A-1

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1985

ALICE J. WOODSIDE,
Petitioner

vs

S. HOERNER, UNITED STATES, et als,

Respondents

PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

LIST OF ALL PARTIES

ALICE J. WOODSIDE,
Petitioner

vs

UNITED STATES, S. HOERNER, Administrator of Finance, West Jersey Health Systems, JEFFREY DANIELS, JOHN OSLER, M.D., CHARLES WILKENS, JR., M.D., BERNARD ZAPP, M.D., JOHN A. MASSARO, D.O., HARRIS A. TWERSKY, D.O., BENNY RIVELLO, JR., D.O., COLETTE SEDARAT, JAIME COLL, M.D.

Respondents

LIST OF OPINIONS BELOW

Thompson Opinion April 4, 1985

Appeals Court Opinion August 28, 1985

JURISDICTIONAL STATEMENT

The Third Circuit Court of Appeals has sanctioned such extreme departures from accepted and usual course of judicial procedures by Thompson's district court order of April 4, 1985 as to call for an exercise of the Supreme Court's power of supervision by 28 USC 1254.

U.S. CONSTITUTIONAL PROVISIONS INVOLVED

AMENDMENT 4

...nor shall any state deprive any person of life, liberty, or property without due process of law nor deny to any person within its jurisdiction the equal protection of the laws

VIOLATED STATUTES IN COURT ORDERS AND OPINIONS

FEDERAL RULES OF CIVIL PROCEDURE NUMBERS

1	429	201	801
17	52	301	
38	56	401	

U.S. CODES

28 USC 1343(1)
28 USC 1346(b)
28 USC 2672
28 USC 1442(a)(1)
28 USC 2674
28 USC 2675(b)
28 USC 2679(c)(d)

OTHER

42 CFR 405.820
42 CFR 421.5(b)

STATEMENT OF THE CASE

S. Hoerner reduced Alice Woodside's benefits from hospital rates to nursing home rates on March 1, 1983 immediately after Alice broke her hip, and thereby forced Dr. Coll to kick Alice out of the hospital in a stedily deteriorating condition on May 1, 1983, to die six weeks later. U. S. Attorney W. Hunt Dumont removed the case from Superior Court to Federal District Court on February 22, 1984 claiming jurisdiction. Dumont said S. Hoerner is employed as a claims examiner by the Prudential

Insurance Company of America that acts as a carrier for the Secretary of the United States Department of Health and Human Services in the administration of the Federal Health Insurance Program 42 USC 1395 et seq. Dumont says Prudential is a duly authorized agent of the United States and acts under authority of the Secretary of Health and Human Services. Dumont says S. Hoerner was negligent in determining allowable charges for medical services rendered to Alice Woodside. Dumont says the United States -- and more particularly the Administrator of the Health Care Finance Administration, United States Department of Health and Human Services is therefore the real party in interest 42 CFR 421.5(b) and this civil action may be removed to this court pursuant to 28 USC 1442(a)(1). U.S. Attorney Dumont has clearly showed both procedural and substantive federal

jurisdiction in this case. Thompson, however, in criminal coverup of the government's actions of genocide in this case has remanded jurisdiction to state court without ever dismissing the defendant S. Hoerner who now becomes a U.S. Government employee in a state action represented by U.S. Attorney Dumont through his agent, Mary Whipple. State court can now find the United States guilty and assess them damages accordingly.

It is straight out criminal corruption for Thompson to refuse to move on this case for over a year from February 22, 1985 to April 4, 1985 until all statutes of limitations have run out and plaintiff has been robbed of any and all options. This criminal corruption of Thompson is equivalent to a plea of guilty by S. Hoerner in her criminal corruption of cutting Medicare costs by

the murder of Alice Woodside. Thompson's criminal coverup of S. Hoerner to commit murder is a typical example of the general policy of genocide being carried out by the United States to balance the budget on the backs of the poor in order to give bigger and better tax cuts to the million millionaires in the U.S. today. It is a tragic commentary against the greatest power on earth today to criminally cover up its criminal activities against the poor of this country in violation of their human, civil, constitutional, and God-given rights as much as any country on earth. Thompson should be fired for her criminal corruption in this case so that the people can once again look to their courts for justice instead of criminal coverups of the criminal oppression of the people by government. The other defendants are very active litigants with

this defendant because now they have to pay up that much more from their insurance carriers, because of Thompson's criminal corruption of law and justice in her criminal coverup of the criminal murder and mayhem carried out by S. Hoerner against Alice. Thompson's criminal coverup of S. Hoerner's criminal activities is a typical government criminal coverup of the government policy to rob the poor and give to the million millionaires in the United States today.

ARGUMENTS ON QUESTIONS OF SAME NUMBER

I. Supreme Court should grant the Petition for Certorari to resolve the ambiguity in Thompson's opinion that jurisdiction in this appears to lie in state court and other violations of procedures, statutes, and codes.

1. Thompson repeatedly violated FRCP 56 by passing judgment on many motions that she could not possibly know anything

about because Thompson stayed discovery to conceal material facts of this case, like S. Hoerner's negligence in determining payments.

2. U.S. Attorney Dumont states in removal papers that the United States is the real party of interest by 42 CFR 421.5(b) and that jurisdiction in this case is in federal courts by 28 USC 1442(a)(1).

3. Thompson deliberately violated FRCP 301 and 401 by staying discovery and concealing evidence in a court case.

4. Convalescent home is only defendant answering complaint on time -- all other defendants either answered months late or not at all, and hence are in default.

5. The only proper motion before Thompson, because of Thompson's stay of discovery, was the Whipple motion to confirm jurisdiction. Thompson showed extreme departure from accepted judicial

discretions by entering judgments on other motions without discovery, and after Thompson decided she had no jurisdiction in this case that she said appeared to fall under state jursidction. Any judge that passes on motions after stating that she had no jurisdiction in this case should be suspended for incompetency. Negligent payments by federal employee S. Hoerner motivated most all other actions in this. Plaintiff emphasizes that Thompson did not dismiss S. Hoerner as a defendant, but only ruled that jurisdiction for this case falls under state jurisdiction in violation of 28 USC 2679.

6. Thompson violated 42 CFR 405.820 by refusing Alice a hearing after all other appeals mechanisms of due process were exhausted by Alice.

7. Thompson violated 28 USC 1343(1) by depriving Alice of recovering damages for

injury and death to her.

Thompson violated 28 USC 1346(b) by denying jurisdiction for personal injury and death caused by the negligence and wrongful act and omission of S. Hoerner.

Thompson violated 28 USC 2672 by refusing to order Prudential to hold Administrative hearings as required by law.

Thompson violated 28 USC 2674 by refusing to determine the liability of the United States in this wrongful death.

Thompson violated 28 USC 2675(b) by staying discovery.

Thompson violated 28 USC 2679(c)(d) by refusing to defend a federal government employee.

CONCLUSION

Petitioner respectfully requests on writ of certiorari that the Supreme Court order jurisdiction for this case be returned to Federal District Court where

it belongs, and that Thompson cease and desist from violations of due process like deciding motions after staying all discovery in this case to get at any of the material facts of this case, and after deciding her court has no jurisdiction.

Respectfully submitted,

Dr Daniel L. Woodside

DR. DANIEL L. WOODSIDE

Administrator ad Prosequendum

September 6, 1985

APPENDIX

TABLE OF CONTENTS

Page

Thompson D.C. Opinion, Order, 4/4/85..... A-2

Third Circuit A.C. Order 4/28/85.... A-18

U.S. Attorney removal jurisdiction.. A-20

Hoerner Cut of Medicare Payments.... A-23

Woodside request for information.... A-25

Hoerner admission of no medical information on Alice before cutting payments, 1/18/84..... A-26

Joining of Hoerner as Defendant, 1/20/84..... A-28

Hoerner Affidavit, 4/11/84, again claiming no medical information on Alice and again denying Woodside request to review claims determination..... A-33

Woodside answer to Hoerner affidavit stating he sent complete hospital records to Hoerner including discharge summary and again requesting review of Hoerner's cutoff of money, 4/28/84..... A-34

FILED
April 4 1985
Allyn Z. Lite,
Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DANIEL WOODSIDE,	:	Civil Action
Plaintiff,	:	#84-0714 (AET)
vs.	:	
		OPINION
WEST JERSEY HEALTH SYSTEMS, etc., et al.,	:	
	:	
Defendants.		

THOMPSON, District Judge

APPEARANCES:

Mr. Daniel Woodside
Post Office Box 646
Marlton, N.J. 08053
(Plaintiff, pro se)

Mary Gibbons Whipple
Assistant U.S. Attorney
402 East State Street, Room 265
Trenton, New Jersey 08608
Attorney for Defendant Hoerner

Thomas M. Walsh, Esquire
Parker, McCay & Criscuolo
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Marlton, New Jersey 08053
Attorney for Defendant West Jersey Health System

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903 No. Broad Street
Woodbury, N.J. 08096
Attorney for Defendant Mt. Laurel Convalescent Center

John Fratto, Esquire
208 White Horse Pike
Barrington, N.J. 08007
Attorney for Defendant Daniels

Stanley Stahl, Esquire
Evesham & Alpha Avenues
Voorhees, N.J. 08043
Attorney for Defendants Zapp, Osler and Wilkens

Edgar E. Moss, Esquire
Moss, Powers, Lezenby
Seven East Main Street
Moorestown, N.J. 08057
Attorney for Defendants Massaro, Twersky & Rivello

Yampell & Cosentino
131 Kings Highway East
Haddonfield, N.J. 08033
Attorney for Defendant Sedarat

Plaintiff Daniel L. Woodside originally filed a complaint in the Superior Court of New Jersey alleging medical malpractice, negligence and wrongful death against defendants West Jersey Health Systems ["WJHS"], Mr. Laurel Convalescent Center, Collette

Sedarat, S. Hoerner, and Doctors Daniels, Zapp, Massaro, Osler, Wilkens, and Rivello. Defendant Hoerner removed the complaint to federal court on February 22, 1984 [Civil Action No. 84-714]. Plaintiff filed a second complaint in this court against the same defendants on May 1, 1984 [Civil Action No. 84-1801]. The matters were consolidated by order of the court on May 23, 1984. This opinion resolves a number of motions without oral argument pursuant to Fed. R. Civ. P. 78.

First, plaintiff has moved to vacate the court's order of consolidation. Consolidation is appropriate in cases involving a "common question of law or fact... [when consolidation] may tend to avoid unnecessary costs or delay." Fed. R. Civ. P. 42(a). Both complaints at issue are against the same defendants. Both complaints involve the same factual allegations: unnecessary and negligent

treatment of Alice Woodside at Garden State Hospital in April and May 1982; negligent and irresponsible treatment of Alice Woodside by Doctors Massaro, Twersky, Osler and Wilkens in West Jersey Hospital in Camden from January through May 1983; negligent care of Ms. Woodside by Dr. Rivello and Mt. Laurel Convalescent Center from early May 1983 until her death in June 1983; negligent treatment by Dr. Daniels at an unspecified time; negligence in providing Medicare benefits by Ms. Hoerner; and failure to promptly process a Medicaid application by Ms. Sedarat. The two complaints are virtually identical: the only difference the court has discerned is that Civil Action No. 84-1801 does not contain the page labeled "Woodside 7" found in Civil Action No. 84-714 containing paragraphs 12B and 13B. Therefore, consolidation is appropriate and plaintiff's motion to

vacate consolidation is denied. Plaintiff's motion to file a new complaint inasmuch as it is based on the consolidation order is also denied.

Plaintiff has made motions for default judgment against defendants Hoerner, Sedarat, Twersky, Massaro, Rivello, Zapp, Osler, Wilkens and WJHS. [1/] Plaintiff's motion is apparently based on the argument that defendants have failed to answer Civil Action No. 84-1801, the consolidated complaint. Hoerner, Sedarat, Twersky, Massaro, Rivello and WJHS did either answer or file a motion to dismiss as to Civil Action No. 84-714, however. Since the complaints are identical and since they have been consolidated, the court is satisfied that these parties have adequately answered in this case.

1/ Dr. Twersky is not listed as a defendant in the caption of plaintiff's complaint.

The court will not require an independent answer to Civil Action No. 84-1801 since it would necessaily be duplicative of those answers alredy on file. Plaintiff's motion for default as to these defendants is denied.

The attorney for defendants Zapp, Osler and Wilkens filed an affidavit on June 23, 1984 stating that they were not properly served with Civil Action No. 84-1801. The file does not otherwise reveal proof of service of Civil Action No. 84-1801 on these defendants. Therefore, plaintiff's motion for default is denied as to these defendants also.

On August 21, 1984, Ms. Sedarat filed a motion to amend her answer and to add cross claims. The United States Magistrate granted that motion on October 3, 1984. Plaintiff has moved to vacate the Magistrate's order. Plaintiff's motion is based on his dissatisfaction

with this court's order of consolidation and his motion for default for failure to file a separate answer in Civil Action No. 84-1801. The Magistrate's order is appropriate in light of this court's rulings. Therefore, plaintiff's motion will be denied.

Ms. Hoerner has moved to dismiss the complaint against her. Ms. Hoerner is a claims examiner employed by Prudential Insurance Company of America ["Prudential"], a carrier responsible for administering claims submitted for physician's services under Part B of the Medicare program, 42 U.S.C. § 1395(j) et seq. The record indicates that Ms. Woodside submitted Medicare claims to Prudential, however Prudential provided payment for only a portion of them. Ms. Hoerner supplied information to Ms. Woodside about Prudential's determinations. Plaintiff claims that Ms. Hoerner or

Prudential was negligent in determining the allowable charges.

Hoerner correctly argues that the Health Care Financing Administration ["HCFA"] is the real party in interest, and that Hoerner herself cannot properly be sued for negligence in carrying out her duties under the Medicare statute. 42 C.F.R. § 421.5(b) ("Intermediaries and carriers act on behalf of the [Health Care Financing] Administration in carrying out certain administrative responsibilities that the law imposes. Accordingly, their agreements and contracts contain clauses providing for indemnification with respect to actions taken on behalf of the Administration and the Administration is the real party in interest in any litigation involving the administration of the program.") Under the statute, however, the HCFA may not be sued in district court to challenge a

determination as to the amount of payments. United States v. Erika, Inc., 456 U.S. 210 (1982). A claimant challenging the amount paid is entitled only to a fair hearing when the amount in controversy exceeds $100.00. 42 U.S.C. § 1395u(b)(3)(C). A claimant is not entitled to judicial review of this determination. United States v. Erika, Inc., supra at 207. Therefore, plaintiff's claim against Ms. Hoerner or the HCFA must be dismissed.

Plaintiff argues that the court should deny Hoerner's motion and continue this case pursuant to 28 U.S.C. § 2675. Section 2675 states that no action may be brought against the United States until first presented to the appropriate federal agency. Plaintiff had filed a Federal Tort Claims Act action against Ms. Hoerner on April 21, 1984. That administrative action was dismissed for

failure to substantiate a claim of negligence. As the Erika case shows, plaintiff is not entitled to judicial review of Ms. Hoerner's determinations, notwithstanding the fact that he had earlier presented the claim to an administrative agency. Therefore, defendant's motion to dismiss is granted and plaintiff's cross motion is denied.

Plaintiff has also made the allegation that Ms. Hoerner or Prudential should not have released payments to physicians until they verified the quality of the treatment received. Neither the insurance carrier nor the HCFA has this responsibility under the Act. Therefore, this allegation must also be dismissed for failure to state a claim.

Plaintiff has moved to file a new complaint (Civil Action No. 84-1801) on the grounds that the removal of Civil

Action No.84-714 was improper. Hoerner removed the action pursuant to 28 U.S.C. § 1442(a)(1) on the basis that the action complained of was against "any officer on the United States or any agency thereof, or person acting under him, for any act under color of such office...." Plaintiff's claim against Hoerner was for her actions under color of authority from the HCFA. Therefore, the case was properly removed under Section 1442. Plaintiff objects that only the counts against Ms. Hoerner should have been removed. "It is well-settled that if one claim cognizable under Section 1442 is present, the entire action is removed, regardless of the relationship between the Section 1442 claim and the nonremoval claims." National Audubon Society v. Dept. of Water and Power, 496 F.Supp. 499, 509 (E.D. Ca. 1980). Therefore, plaintiff's motion will be denied.

If a claim is properly removed under 42 U.S.C. § 1442, and the federal claims are dismissed, it is within the court's discretion "to decline to exercise continued jurisdiction over non-federal elements." Spencer v. New Orleans Levee Board, 737 F.2d 435, 438 (5th Cir. 1984). If the court declines to exercise jurisdiction, the case must be remanded to the state court. Id. In this case, the complaint revels no independent federal jurisdiction beyond the removal jurisdiction under § 1442. The case appears to be based on state law, and reveals no diversity jurisdiction. Furthermore, there appears to have been substantive proceedings in state court prior to the removal. Therefore, the court will remand further proceedings to the Superior Court of New Jersey, Law Division, Burlington County. The consolidated complaint, Civil Action No.

84-1801, is likewise dismissed for lack of jurisdiction.

Defendants Twersky, Massaro, Rivello and WJHS' motions to dismiss the complaint, defendant Hoerner's motion to enlarge time in which to produce documents, and plaintiff's motion to reinstate WJHS as a defendant are therefore moot.

Dated: April 3, 1985

FILED
April 4 1985
Allyn Z. Lite
Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DANIEL WOODSIDE,	:	Civil Action #84-0714
Plaintiff,	:	(AET)
vs.	:	O R D E R
WEST JERSEY HEALTH SYSTEMS, etc., et al.,	:	
Defendants.		

For the reasons expressed in this court's opinion filed even date herewith, it is on this 3rd day of April 1985,

ORDERED that defendant Hoerner's motion to dismiss for lack of subject matter jurisdiction is hereby granted; and it is further

ORDERED that defendants Twersky, Massaro and Rivello's motion to dismiss the complaint for failure to answer interrogatories is moot; and it is further

ORDERED that plaintiff's motion to file a new complaint is denied; and it is further

ORDERED that plaintiff's motion to deny Hoerner's motion and to continue until after an administrative hearing is hereby denied; and it is further

ORDERED that plaintiff's motion to reinstate West Jersey Health Systems as a defendant is moot; and it is further

ORDERED that plaintiff's motion to vacate an order of consolidation is hereby denied; and it is further

ORDERED that defendant West Jersey Health Systems' motion to dismiss the complaint is moot; and it is further

ORDERED that plaintiff's motion for default are hereby denied; and it is further

ORDERED that plaintiff's motion compelling the production of documents are moot; and it is further

ORDERED that defendant Hoerner's motion to enlarge time to produce documents is moot; and it is further

ORDERED that plaintiff's motion to vacate the Magistrate's order is hereby denied; and it is further

ORDERED that Civil Action No. 84-1801 is hereby dismissed for lack of subject matter jurisdiction; and it is further

ORDERED tht this action be remanded to the Superior Court of New Jersey, Law Division, Burlington County.

/s/ ANNE E. THOMPSON
U.S.D.J.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 85-5286

DANIEL L. WOODSIDE, Executor and ALICE J. WOODSIDE

v.

WEST JERSEY HEALTH SYSTEM, MT. LAUREL CONVELESCENT CENTER, JEFFREY DANIELS, BERNARD ZAPP, M.D., JOHN M. MASSARO, D.O., HARRIS A. TWERSKY, D.O., JOHN OSLER, M.D., CHARLES WILKENS, JR., M.D., BENNY RIVELLO, JR., D.O., COLETTE SEDARAT, S. HOERNER, Administrator of Finance, Health and Human Service, United States

DANIEL L. WOODSIDE

v.

S. HOERNER, et al., WEST JERSEY HEALTH SYSTEM, MT. LAUREL CONVELESCENT CENTER, JEFFREY DANIELS, BERNARD ZAPP, M.D., JOHN M. MASSARO, D.O., JOHN OSLER, M.D., CHARLES WILKENS, JR., M.D., BENNY RIVELLO, JR., D.O., COLETTE SEDARAT

Daniel L. Woodside, Administrator,

Appellant

APPEAL FROM THE UNITED STATES
DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

(D.C. Civil No. 84-0714 & 84-1801)

District Judge: Honorable Anne E. Thompson

Submitted Pursuant To Third Circuit Rule (12(6)
August 6, 1985

Before: WEIS, HIGGINBOTHAM, and ROSENN, Circuit Judges

JUDGMENT ORDER

After consideration of all contentions raised by appellant, it is

ADJUDGED AND ORDERED that the judgment of the district court entered April 4, 1985 be and the same is hereby affirmed.

Costs taxed against appellant.

BY THE COURT,

/s/ Weis
Circuit Judge

Attest:

/s/ Sally Mruos
Clerk

Date: Aug 28 1985

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DANIEL WOODSIDE,	:	Hon.
Plaintiff,	:	Civil Action No.
v.	:	VERIFIED PETITION FOR REMOVAL
S. HOERNER, et al.,	:	
Defendants.	:	

The United States of America, on behalf of defendant S. Hoerner, by and through its attorney, W. Hunt Dumont, United States Attorney for the District of New Jersey, by way of Petition respectfully states:

1. S. Hoerner is named as a defendant in the above action now pending in the Superior Court of New Jersey, Law Division, Burlington County, Docket No. L-53296-83 MM.

2. A copy of a Summons and a document entitled "Joining of Defendant and Amendment to Complaint" was received by mail on January 23, 1984 at the offices

of the Prudential Insurance Company of America. Copies of the foregoing, which constitute the only pleadings received, are annexed hereto and made a part hereof.

3. Defendant S. Hoerner is employed as a Claims Examiner by the Prudential Insurance Company of America (hereinafter "Prudential"). Prudential acts as a carrier for the Secretary of the United States Department of Health and Human Services in the administration of the federal health insurance program, known as Medicare, Title XVIII of the Social Security Act, 42 U.S.C. §1395, et seq. In that capacity, Prudential is a duly authorized agent of the United States of America and acts under the authority of the Secretary of Health and Human Services. 42 U.S.C. §1395u.

4. Based upon the annexed document, entitled "Joining of Defendant and Amend-

ment to Complaint," it appears that plaintiff alleges that defendant S. Hoerner was negligent in determining allowable charges for medical services rendered to Alice Woodside. */

5. Any alleged conduct on the part of defendant S. Hoerner in administering claims for reimbursement under Medicare occurred within the scope of her employment with Prudential while Prudential was functioning under color of its office as a duly authorized Medicare carrier and agent of the United States of America. The United States of America, and more particularly the Administrator of the Health Care Finance Administration, United States Department of Health and Human Services, is therefore the real party in interest, 42 C.F.R. §421.5(b),

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*/ The underlying Complaint was not served. Therefore petitioner is unsure of the allegations contained therein.

and this civil action may be removed to this court pursuant to 28 USC 1442(a)(1). The underlying complaint was not served.

MEDICARE

The Prudential
Insurance Company
of America

P. O. Box 6500
Millville, N. J. 08332

PRUDENTIAL

November 3rd 1983

HIC # 157-14-2893-A

CONTROL # 9186-23492

Ms. Alice Woodside
P. O. Box 237
Marlton, NJ 08053

Dear Ms. Woodside:

This is in response to your inquiry of August 19, 1983, concerning services rendered by Dr. Osler from January 17th through May 1st, 1985, for 105 days totalling $2,685.

From the information contained on the claim form, we have determined 40 days to be a reasonable period of medical necessity.

If you feel there is information of which we are unaware, and wish to have your

physician submit hospital records, we will conduct an Informal Review. Our Medical Staff finds it helpful in arriving at a fair decision if the admission and discharge summaries and all progress notes are included in the records submitted. Any request for review must be submitted within six months of the date of this correspondence.

Sincerely,

/s/ S. Hoerner

Claim Examiner
Medical Administration

P.O.Box 646
Marlton, New Jersey 08053
November 5, 1983
HIC 157-14-2893A
3186-23492
Re: Your letter Nov 3, 1983

S. Hoerner
Chief Examiner
Prudential Medicare
P.O.Box 6500
Millville,New Jersey 08332

Dear Mr. Hoerner:

Please describe to me in great detail all information,letters,claims,etc which you had in your possession at that time that you made that decision.What was the date of your decision? Also-please tell me all information you have on any and all care for Alice J. Woodside for 1983-especially the balance of the period Jan 17 through June 8, 1983.What are the names of all medical personnal and organizations putting in claims on Alice Woodside for 1983.

Very truly yours,

/s/ Alice J. Woodside/dlw

Alice J. Woodside

REC'D MED. ADMIN. TCO
NOV 7 1983

* * * * *

MEDICARE

The Prudential
Insurance Company
of America

P. O. Box 6500
Millville, N. J. 08332

PRUDENTIAL

Mrs. Alice Woodside
P. O. Box 646
Marlton, NJ 08053

January 18, 1985

HIC #157-14-2893-A

Dear Mrs. Woodside:

I have received your recent correspondence concerning your Medicare claims and I hope the following information will be sufficient.

As a Part "B" Intermediary, we are responsible for not only determining the allowable charge, but we must verify that payment is to be made only for those services which are medically required for the care, treatment, or diagnosis of an illness or injury.

Previously when we re-evaluated the services rendered by Dr. Osler, we based our decision on the information submitted on the claim form only. For a hospital stay of this length it is advisable to submit the hospital records. The case will then be forwarded to a member of our Medical Staff for evaluation.

Upon checking our files, claims were submitted for medical care rendered by the Surgical Associates of Cherry Hill and South Jersey Radiological Associates of Cherry Hill during 1983.

Should you have any questions, please feel free to contact us.

Sincerely,

/s/ S. Hoerner

S. Hoerner
Claim Examiner
Medical Administration

SH:slm

Superior Court of New Jersey
Burlington, Division,Mt. Holly 08060

Plaintiff	Civil L-53296-83MM
Daniel L. Woodside P.O.Box 646 Marlton,New Jersey 08053	Van Sciver Joining of Defendant and Amendment to Complaint
v	
Defendants	
S.Hoerner et al	

TAKE NOTICE that S. Hoerner is joined as a defendant in this case for the following reasons:

1. S.Hoerner was negligent in determing the allowable charges for Alice Woodside.

2.S. Hoerner was negligent in not verifying that payment was indeed being made for services medically required for care, treatment, and diagnosis of illnesses and injuries.

3.S. Hoerner was negligent in basing his decisions on an incorrect claim form from Dr. Osler and not getting verification from Daniel Woodside or the hospital

records for a hospital stay of this length.

4.S.Hoerner is negligent not even mentioning verification of records or raising any other questions to Daniel Woodside till his letter of January 18, 1984 seven months after Alice died.

5.The negligence of S.Hoerner contibuted to the voluntary manslaughter of Alice Woodside by all defendants.

/s/ Dr. Daniel L. Woodside
Dr. Daniel L. Woodside
Attorney for Plaintiff

January 20,1984

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DANIEL WOODSIDE, Plaintiff,	Civil Action No. 84-174
v.	
S. HOERNER, Defendant.	Affidavit of Sandra Hoerner

State of New Jersey)
) SS
County of Cumberland)

Sandra Hoerner, being duly sworn, deposes and says:

1. I am employed as Claims Examiner in the Medical Administration Division of the Prudential Insurance Company of America in Milville, New Jersey.

2. The Prudential Insurance Company of America acts as an agent of the United States Department of Health and Human Services and is responsible for administering claims submitted for physician's

services in New Jersey under Part B of the Medicare program.

3. As a Claims Examiner, I am responsible for the review of claims for physician's services under Part B of Medicare to determine the medical necessity of the services rendered, the allowable charges and the amounts payable for such claims. I am also responsible for giving individuals information regarding the disposition of their claims and of the opportunity to request further review.

4. Alice Woodside submitted claims under Part B of Medicare for physician's services performed by Dr. J. H. Osler. Amounts payable for certain claims for services are initially determined through application of standardized criteria. When these criteria were applied to Alice Woodside's claims, it was determined that 40 days of services provided by Dr. Osler

would be paid for. I was not involved in the initial claims determination or in the initial notification to Alice Woodside.

5. By letter dated August 20, 1983, Alice Woodside requested further information concerning the disposition of these claims. A copy of the letter is annexed as Exhibit A.

6. On November 3, 1983, I responded to Ms. Woodside's request for further information and advised her that she had the right to submit hospital records and request an informal review of the claims determination. A copy of the letter is annexed as Exhibit B.

7. On November 3, 1983, Alice Woodside submitted a second request for further information concerning the claims determination. A copy of the letter is annexed as Exhibit C.

8. On January 18, 1984, I responded

to Alice Woodside's request for further information. A copy of the letter is annexed as Exhibit D.

9. I have had no contact with either Daniel or Alice Woodside other than through the correspondence described above concerning the Medicare claims determination.

/s/ Sandra Hoerner

Sandra Hoerner

Sworn to before me this 11th

day of April, 1984

/s/ Albert J. Fliedner
NOTARY PUBLIC

ALBERT J. FLIEDNER
Notary Public of New Jersey
My Commission Expires May 26, 1987

United States District
District of New Jersey

Daniel L. Woodside
POBox 646
Marlton,New Jersey 080553
983 3899 437 6037

Civil 174 AET

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Attorney's certification for Motion to Grant continuance and deny Whipple motion for dismissal for May 21,1984

Alice J. Woodside,Plaintiff

v

United States et als

Daniel L. Woodside does certify to the following:

1.Whipple motion is improper and fatally flawed because no copy of complaint 84-174 was ever received by Daniel L. Woodside who knows nothing of it.

2.Whipple motion is fatally flawed by listing wrong plaintiff. Plaintiff is Alice J Woodside as correctly given in unassigned complaint of April 18,1984. Daniel L. Woodside is executor.

3.The dismissal with prejudice is a gross

miscarriage of justice, violates Constitutional rights of due process and proves refusal of government to take responsibility for wrongs against the plaintiff even when government is properly petitioned.

4.Whipple motion is fatally flawed by omitting address and phone number of Fred Rosen that Woodside never heard of before to send anything to,or to communicate with in anyway.U,S.attorney said in February papers that Administrator of Health and Care Financing Administration in Washington was real party of interest to which Woodside sent copy of complaint and Administrative claim.

6.Rosen is wrong saying that Alice Woodside submitted claims for anything to Prudential.Dr. Osler submitted those claims and Alice signed.

7.Prudential letter of August 29,1983 states that Millville handles Medicare A

for hospitals and that Linwood handles Part B for doctors dispite Rosen now saying the opposite-in any case HHS is still the real party of interest as the United States.

8.Rosen affidavit is the first time Daniel Knew Dr. Osler never sent hospital records.Rosen is wrong saying Alice was told to send records because previous Prudential letter said to tell Dr. Osler to sent them.Daniel told Dr. Osler's nurse Kathy several times to send hospital records to Millville for review that Dr.Coll's committee and Medicare erred in not keeping Alice in Hospital instead of evicting her to nursing home.

9.Daniel sent complete Hospital records to S. Hoerner today April 28,1984 to see if Dr,Coll's committee and Medicare erred in evicting Alice from hospital May 2, 1983 with her rapidly deteriorating health from which Alice died June 8,

1983.Prudential readily admits requests for information as to how claims determinations were arrived at to refuse hospital rates to Alice,change payments to those of a nursing home, and refuse doctors claims for payments.

10.Daniel will await with interest Rosen's review of Alice hospital records and to possibly request a hearing.

11.Medicare B erred in limiting Dr Osler's payment to 40 days and thereby cut off doctors care just a few weeks before Alice died.

12.S. Hoerner never did submit to Daniel any of the documents demended by Daniel in his letter of Nov. 3,1983.

13.To this date Prudential never has answered any of Daniel's questions about Doctors or hospital payments.

14.Whipple mistakenly says claims determination under Part B only is at issue.

15.Whipple brief and 28 USC 2675 clearly agree that this case be continued in U.S.District Court until after administrative hearing.

April 28,1984 Daniel L. Woodside

/s/ Daniel L. Woodside